

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RICHARD LEE HURLEY,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 3:23-cv-06091-TL-BAT

**ORDER DENYING MOTION TO  
APPOINT COUNSEL**

Petitioner moves for appointment of counsel in this 28 U.S.C. § 2254 habeas action. Dkt. 6. A § 2254 petitioner is not entitled to appointment of counsel unless an evidentiary hearing is required, and if one is not, only if the “interests of justice so require.” 18 U.S.C. § 3006A; *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1992).

Petitioner contends the Court should grant him habeas relief on the grounds the state trial judge’s imposition of an exceptional sentence violates the Sixth Amendment. This claim of legal error indicates an evidentiary hearing is unnecessary. If the Court later orders an evidentiary hearing, it will appoint counsel if Petitioner is financially eligible. The Court also finds the interests of justice does not require the appointment of counsel. Petitioner requests counsel on the grounds he has “no money to hire a lawyer” but this is a circumstance virtually all prisoners

1 face. The Court further finds the pleadings Petitioner has submitted shows he has the ability to  
2 present his claim and that his claim is not so complex that counsel must be appointed.

3 Accordingly, the Court ORDERS:

- 4 1. Plaintiff's motion for appointment of counsel, Dkt. 6, is **DENIED without**  
5 **prejudice.**
- 6 2. The Clerk shall provide a copy of this Order to Petitioner.

7 DATED this 27<sup>th</sup> day of December, 2023.

8  
9   
10 \_\_\_\_\_  
11 BRIAN A. TSUCHIDA  
12 United States Magistrate Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23